

Greenblatt: HB1032

Seclusion and Restraint Guidelines and Reporting

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New Hanover County Schools
Revised April 2020

NHCS Board Policy 8452 as it aligns with NCGS

PER BOARD POLICY:

Restraint, seclusion and isolation of students will be used in the New Hanover County Schools only as permitted under this Policy.

Any student, a general education student or a student with a disability, may be restrained, secluded or isolated in accordance with the provisions of this Policy.

NHCS BOARD POLICY:8452 continued...

- ▶ school personnel may use “reasonable force” to control behavior or to remove a person from a scene in the circumstances specified in [NCGS §115C-390.3](#), including self-defense
- ▶ [NCGS §115C-391.1](#) describes the circumstances under which the use of physical restraint, mechanical restraint, seclusion or isolation may be permitted. Except as permitted in NCGS §115C-391.1, the use of physical restraint, mechanical restraint, seclusion or isolation is prohibited.
- ▶ Neither physical restraint nor seclusion may be used solely as a disciplinary consequence.
- ▶ Aversive procedures are prohibited.

Central Office Responsibilities per NHCS Board Policy and NC General Statute

- ▶ DEVELOP PROCEDURES FOR:
 - ▶ **documentation** of
 - ▶ incidents of aversive procedures
 - ▶ prohibited mechanical restraint
 - ▶ physical restraint resulting in observable physical injury to a student
 - ▶ the prohibited use of seclusion or seclusion that exceeds ten minutes or the amount of time specified in the student's behavior intervention plan
 - ▶ **parent notification** of such events
 - ▶ **staff training** with emphasis on effective verbal intervention practices.

Caveats

- ▶ POLICY 8452 shall not:
 - ▶ Apply to law enforcement officers acting in the lawful exercise of their law enforcement duties.
 - ▶ prohibit or regulate the use of “time out” as defined in [NCGS §115C-391.1](#)
 - ▶ modify the rights of school personnel to use reasonable force as permitted under NCGS §115C-390.3 or modifies the rules and procedures governing discipline under NCGS §115C-390.1 -390.12.
 - ▶ Nothing in this Policy shall be construed to create a private cause of action against the New Hanover County Board of Education, its members, agents or employees, or to create a criminal offense. LEGAL REF: NCGS §§115C-390.3 and 391.1 CROSS REF: (New Policy on Intervention in Student Altercations) Adopted: 06/10/03, Revised: 08/07/06, 04/05/11, _____ 12

DEFINITIONS per NHCS Board Policy and pursuant to NC General Statute

- ▶ **MECHANICAL RESTRAINT** is defined by the statute as the use of any device or material attached or adjacent to the body that restricts freedom of movement or normal access to any portion of the student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.
 - ▶ If the use of an assistive technology device, as defined in NCGS §115C-391.1, results in a mechanical restraint, it shall be used only as provided in a student's Individualized Education Plan (IEP), Section 504 Plan, behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.
- ▶ **PHYSICAL RESTRAINT** is defined by the statute as the use of physical force to restrict the free movement of all or a portion of a student's body.

Definitions continued....

- ▶ **SECLUSION** is defined by the statute as the confinement of a student alone in an enclosed space from which the student is (i) physically prevented from leaving or locking hardware or other means or (ii) not capable of leaving due to physical or intellectual incapacity.
- ▶ **ISOLATION** is defined by the statute as a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

HOUSE BILL 1032

AKA: THE GREENBLATT ACT

- ▶ Law designed to address & define strategies for schools dealing with the aggressive behavior of students
- ▶ Law designed to keep both staff and students safe in the school environment by providing guidelines and a staff training requirement.
- ▶ Passed in 2005

“

Deborah Greenblatt Act

”

Who was Deborah Greenblatt?

North Carolina attorney

A passionate advocate for children and adults with mental disabilities

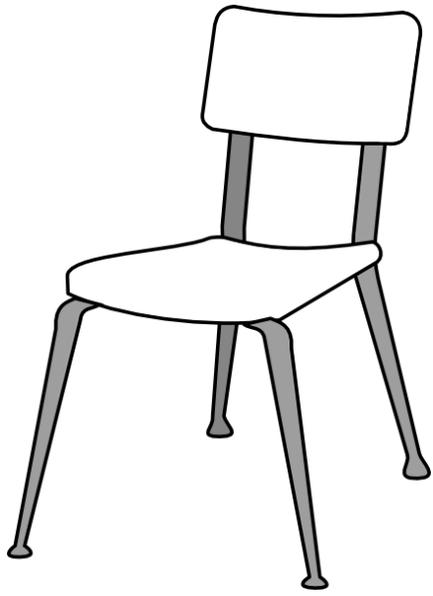
Primarily responsible for bringing together the diverse coalition of disability advocates and education stakeholders who drafted the current bill promoting the safe use of seclusion and restraint in public schools.

HOUSE BILL 1032

What is physical restraint?

Definition:

- ▶ “Physical restraint’ **means the use of physical force to restrict the free movement of all or a part of a student’s body.**” N.C. Gen. Stat. § 115C-391.1(b)(8) (House Bill 1032).

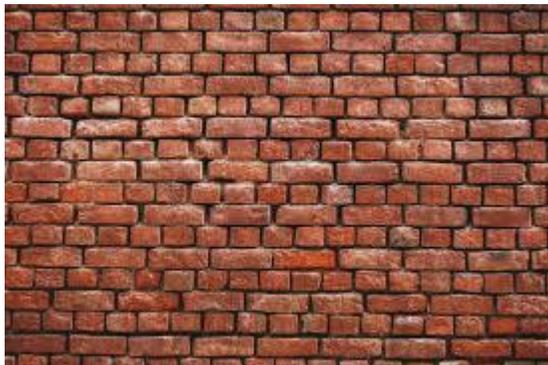


Holding a student in a chair

Grabbing a student by the arm and pulling them in a specific direction



Pinning a student against the wall and preventing them from moving



WHEN IS PHYSICAL RESTRAINT PERMISSABLE?

- ▶ as reasonably needed **to obtain possession of weapons** or other dangerous objects on the person, or within the control of a student;
- ▶ as reasonably needed to maintain order or to prevent or **break up a fight**;
- ▶ as reasonably needed for **self-defense**;
- ▶ as reasonably needed to ensure the **safety** of any student, employee, volunteer, or other person present;
- ▶ as reasonably needed to **teach a skill, to calm or comfort a student, or to prevent self-injurious behavior**;
- ▶ as reasonably needed **to escort a student safely** from one area to another;
- ▶ if used as provided for in an **IEP, Section 504, or behavior intervention plan**; or
- ▶ as reasonably needed **to prevent imminent destruction** to school or another person's property.

BOTTOM LINE:

The use of physical restraint is prohibited except in the situations described in this law.

HOUSE BILL 1032

What is mechanical restraint?

Definition

- ▶ **“Mechanical restraint’ means the use of any device or material attached or adjacent to a student’s body that restricts freedom of movement or normal access to any portion of the student’s body and that the student cannot easily remove.”**

N.C. Gen. Stat. § 115C391.1(b)(7)

(House Bill 1032).



PLACEMENT IN HANDCUFFS

PLACEMENT IN A PRONE
STANDER



PLACEMENT IN A SEATBELT



WHEN IS MECHANICAL RESTRAINT PERMISSABLE?

- ▶ when properly used as assistive technology device included in the student's **IEP, Section 504, Behavior Intervention Plan**, or as otherwise prescribed by a medical or related service provider;
- ▶ when using **seat belts** or other safety restraints to secure students during transportation;
- ▶ as **reasonably** needed to obtain **possession of weapons or other dangerous objects** on the person or within the control of a person;
- ▶ as **reasonably** needed for **self-defense**;
- ▶ as **reasonably** needed **to ensure the safety** of any student, employee, volunteer, or other person.

N.C. Gen. Stat. § 115C-391.1(d)(1)(1)
(House Bill 1032).

WHAT DOES ALL THIS MEAN?

Mechanical restraint, including the tying, taping, or strapping down of a student shall **NOT** be considered to be a reasonable use of force and its use **IS PROHIBITED**

Mechanical restraint, such as the use of restraint devices like handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties is **NOT PROHIBITED**

Bottom Line: The use of mechanical restraint is prohibited except in the situations described in this law

HOUSE BILL 1032

What is seclusion?

Definition:

“Seclusion’ means the confinement of a student alone in an enclosed space from which the student is

- (a) **physically prevented from leaving OR**
- (b) **incapable of leaving** due to physical or intellectual capacity.” (Disability -AU, MR, and TBI)

N.C. Gen. Stat. §115C391.1(b)(10)

(House Bill 1032).

Placement in a seclusion room



WHEN IS SECLUSION PERMISSABLE?

- ▶ as reasonably needed to respond to a person in control of a weapon or other dangerous object;
- ▶ as reasonably needed to maintain order or prevent or break up a fight;
- ▶ as reasonably needed for self-defense;
- ▶ as reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property

Additionally, seclusion may be used

- ▶ When used as specified in the student's **IEP, Section 504, Behavior Intervention Plan; AND**
 - ▶ the student is constantly monitored by an adult in close proximity who is able to see and hear the student at all times; □
 - ▶ the student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in IEP, 504, or behavior intervention plan;
 - ▶ the confining space has been approved for such use by the local education agency;
 - ▶ the space is appropriately lighted, ventilated and heated or cooled; and
 - ▶ the space is free from objects that unreasonably expose the student or others to harm.

N.C. Gen. Stat. § 115C-391.1(e)(1)
(House Bill 1032).

WHAT DOES ALL THIS MEAN?

Seclusion is not considered reasonable force and is **NOT PERMITTED.**

N.C. Gen. Stat. § 115C-391.1(e)(1)(House Bill 1032)

The use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties is **NOT PROHIBITED**

N.C. Gen. Stat. § 115C391.1(e)(4)(House Bill 1032).

Bottom Line: The use of seclusion is prohibited except in the situations described in this law

HOUSE BILL 1032

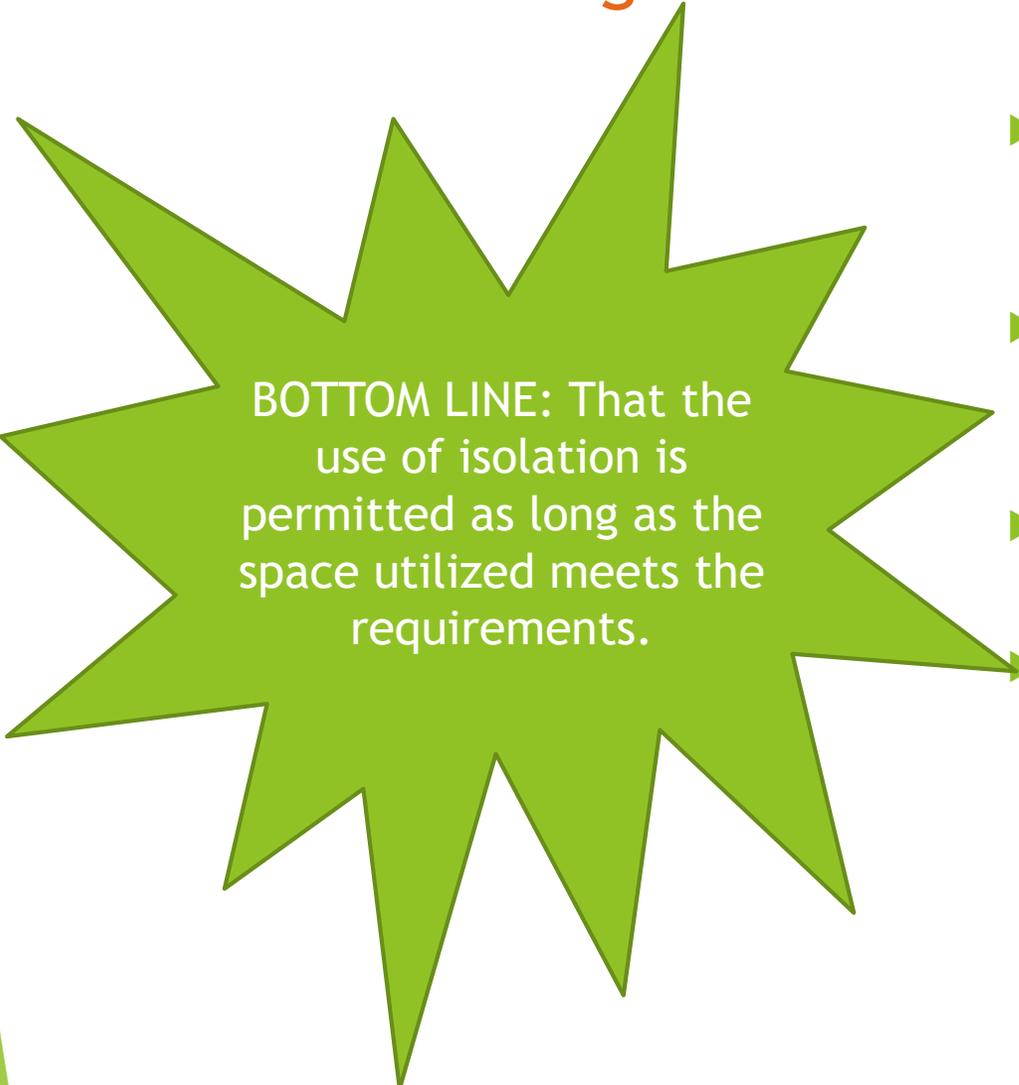
What is isolation?

Definition:

“Isolation means a **behavior management technique** in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.”

N.C. Gen. Stat. § 115C-391.1(b)(5)
(House Bill 1032).

What does this mean? Isolation is permitted as a behavior management technique provided that:



BOTTOM LINE: That the use of isolation is permitted as long as the space utilized meets the requirements.

- ▶ the isolation space is appropriately lighted, ventilated and heated or cooled;
- ▶ the duration of the isolation is reasonable in light of the purpose for the isolation;
- ▶ the student is reasonably monitored; and
- ▶ the isolation space is free from objects unreasonably expose the student or others to harm.

N.C. Gen. Stat. § 115C-391.1(f)

(House Bill 1032).

HOUSE BILL 1032

What is time out?

Definition:

“Time-out” means a **behavior management technique** in which a student is separated from other students for a limited period of time in a monitored setting.

N.C. Gen. Stat. § 115C-391.1(b)(11)
(House Bill 1032).

WHAT DOES THIS MEAN?

BOTTOM LINE:

The use of TIME-OUT is
PERMITTED

HOUSE BILL 1032

What are aversive procedures?

Definition:

“Aversive procedure’ means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

- a. Significant physical harm, such as tissue damage, physical illness, or death;
- b. Serious, foreseeable long-term psychological impairment;

continued...

HOUSE BILL 1032

What are aversive procedures?

Definition continued:

- c. Obvious repulsion on the part of observers who cannot reconcile such extreme procedures with acceptable standard practice, for example:
 - electric shock applied to the body;
 - extremely loud auditory stimuli;
 - forcible introduction of foul substances to the mouth, eyes, ears, nose or skin;
 - placement in a tub of cold water or shower;
 - slapping, pinching, hitting or pulling hair;
 - blindfolding or other forms of visual blocking;
 - unreasonable withholding of meals;
 - eating one's own vomit; or
 - denial of reasonable access to toileting facilities.”

N.C. Gen. Stat. § 115C-391.1(b)(2)

(House Bill 1032).

WHAT DOES THIS MEAN?



**THE USE OF
AVERSIVES IS
PROHIBITED**

The background features abstract, overlapping green geometric shapes in various shades, including light lime green, medium green, and dark forest green, creating a modern, layered effect.

House Bill 1032 Greenblatt

Reporting Requirements & Tools

Reporting Requirements

- A. Annual distribution of this statute is required and should be Included in individual schools' student handbook
- B. Reporting of Certain Incidents is required:
 - 1. School Personnel are required to notify the principal or the principal's designee promptly of certain incidents (as described below).
 - ▶ Any use of aversive procedures
 - ▶ Any prohibited use of mechanical restraint
 - ▶ Any use of a physical restraint resulting in observable physical injury to a student;
 - ▶ Any prohibited use of seclusion, OR
 - ▶ Any seclusion lasting more than 10 minutes or beyond the time specified in a student's behavior intervention plan.
 - 2. Written report & Notice to parents must be sent to inform them of the use of physical restraint, mechanical restraint, or seclusion
 - ▶ School administrators will manage the notification process
 - 3. Staff protected from retaliation for reporting
 - 4. Local Education Agency (New Hanover County Schools) must report information to State Board

N.C. Gen. Stat. § 115C-391.1(j)(2)

(House Bill 1032)

ALL RESTRAINTS
AND SECLUSIONS
MUST BE ENTERED
INTO
POWERSCHOOL

THE GREENBLATT FORM
SHOULD BE USED AS NOTICE
& WRITTEN REPORT TO PARENT

REPORTING AND NOTIFICATION

GREENBLATT FORM: Documentation and Notification

Copy: #1: Student's Module 3 Educational Record
Copy #2: Administrative File
Copy #3: Parent

WHERE ARE THEY
STORED?

LIMITATIONS ON LIABILITY

- ▶ Nothing in the NCGS or House Bill 1032 shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense.

N.C. Gen. Stat. § 115C-391.1(k)

(House Bill 1032)

- ▶ “Notwithstanding any other law, no officer or employee... of a local board of education shall be held civilly liable for using **reasonable force**, ... in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.”

N.C. Gen. Stat. § 115C-391(h)

(House Bill 1032)

HOUSE BILL 1032 GREENBLATT ACT

TRAINING COMPONENT

CRISIS PREVENTION INSTITUTE:
NON VIOLENT CRISIS INTERVENTION

*VERBAL DEESCALATION & PHYSICAL
RESTRAINT*

- ▶ NEW HANOVER COUNTY SCHOOLS REQUIRES:
 - ▶ **ALL STAFF** will participate in **Verbal De-escalation** training at their school.
 - ▶ **SOME STAFF** will also need to be trained in CPI **physical restraint** training.



New Hanover County Schools

Engaging Students, Achieving Excellence